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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,646	11/19/2003	Rasmus Villefrance	684-011600-US (PAR)	7660
2512 PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824	7590 06/01/2007		EXAMINER SMITH, MARCUS	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/716,646

Applicant(s)

VILLEFRANCE ET AL.

Examiner

Marcus R. Smith

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-31 are objected to because of the following informalities: Each new claim limitation should start of with a line indention (see 37 CFR 1.75 (i)). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The independent claim 1, it is not clear how the data packages are related to the modules. In claims 1,18, 23-26, it's not clear where the preamble ends and the claims limitations begin. Applicant is advised to revise all claims to conform with U.S. claim format.

### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:  
  
Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A data package is referring to data structure per se.

Claim 26 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program is referring to computer program per se. The code does state that is run on a data processor but the specification does not describe software, so the data processor can be software as well as the code.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1, 18, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr (US 5,293,379) in view of Suzuki (US 6,788,706).

with regard to claims 1, 18, 23-26 (figure 1, 3, 4):

A system/method for (figure 1)/ (data package (figure 4)/transmitter/receivers (figure 2)/ computer program (figure 2, column 4, lines 41-51):

providing data communication between connected modules (column 4, lines 19-30: modem on the LAN A to modem on LAN B),

wherein said modules are adapted to transmit to and receive from one another a data package (column 4, lines 55-67) comprising (for the data package: see figure 4):

in a layered structure a physical layer comprising a first (Ethernet framing, bytes 0-12) and a second segment (Ethernet framing, byte 60) for encapsulating other layers in said data package,

a data link layer comprising a data link layer control section (IP header bytes 14-30) for carrying data link layer control data and a data section for carrying data for said other layers (bytes 34-58, TCP header and data), and

a transport layer defining a message in said data section, which message is configured according to a transport layer protocol and comprises a payload (packet data, bytes 54-58) and a first header field for format of said payload (protocol), a second header field for start of said payload in said message (fragment offset), a third header field for length of said message (length),

Carr discloses all of the subject matter as described above except for a fourth header field for version of said transport layer protocol, and a fifth header field for message group identity establishing receiving resource format of said payload.

Suzuki teaches a frame handling system that handles packet with headers fields like version, type of service, and PID (which the examiner views as the message group identity) (see figure 4, column 5, lines 38-67) in order to have shorter processing time in a SAR and reduces the sizes circuit which lowers production costs (column 6, lines 1-30).

Therefore it would have been obvious to one having ordinary skill in the art at the time invention was made to transmit and receive frames with versions and PID as

taught by Suzuki in the system of Carr in order to have shorter processing time in a SAR and reduces the sizes circuit which lowers production costs.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus R. Smith whose telephone number is 571 270 1096. The examiner can normally be reached on Mon-Fri. 7:30 am - 5:00 pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MRS 5/25/07

A handwritten signature in cursive script, appearing to read "Chau Nguyen".

CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600